



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED] MI [REDACTED]

Date Mailed: October 11, 2024
MOAHR Docket No.: 24-006190
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Petitioner’s request for a hearing, this matter is before the undersigned administrative law judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a hearing was held via telephone conference on October 2, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Ryan Kennedy, hearings facilitator.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner’s Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly supplemented Petitioner’s FAP eligibility following an administrative hearing order.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED] 2023, Petitioner applied for FAP benefits and reported a household including her spouse, her adult son, and her adult daughter.
2. In September 2023, Petitioner’s spouse received gross wages of \$ [REDACTED] from [REDACTED]. Petitioner’s daughter received gross wages of \$ [REDACTED] from [REDACTED] and Petitioner’s son received gross wages of \$ [REDACTED] and \$ [REDACTED] from [REDACTED].

3. On [REDACTED] [REDACTED] 2023, Petitioner reapplied for FAP benefits resulting in MDHHS issuing \$456 in FAP benefits for October 2024.
4. In October 2023, Petitioner's son received wages of \$ [REDACTED] and \$ [REDACTED] from [REDACTED] [REDACTED].
5. As of February 2024, Petitioner was a simplified reporter and an ongoing FAP benefit recipient.
6. On February 1, 2024, MDHHS mailed Petitioner a Semi-Annual Contact Report (SACR) with a due date of February 21, 2024.
7. As of February 8, 2024, MDHHS had not processed Petitioner's FAP benefit application dated [REDACTED] [REDACTED] 2023.
8. On February 8, 2024, an administrative law judge (ALJ) ordered MDHHS to reregister Petitioner's application for FAP benefits dated [REDACTED] [REDACTED] 2023, and to reprocess Petitioner's FAP eligibility for September and October 2023.
9. On February 16, 2024, MDHHS supplemented Petitioner for FAP benefits of \$170 for September 2023 and \$256 for October 2023.
10. On February 16, 2024, MDHHS mailed Petitioner written notice of an approval of \$766 in FAP benefits beginning March 2024 for a benefit period certified through September 2024.
11. On March 10, 2024, MDHHS mailed Petitioner a Notice of Food Assistance Program (FAP) Closure letter.
12. As of April 1, 2024, Petitioner's FAP eligibility ended due to a failure by Petitioner to return to MDHHS a completed SACR.
13. On April 1, 2024, Petitioner requested a hearing to dispute the termination of FAP benefits beginning April 2024.
14. On April 1, 2024, Petitioner requested a hearing to dispute the amount of FAP benefits supplements for September and October 2023.

CONCLUSIONS OF LAW

The FAP (formerly known as the Food Stamp program) is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of FAP benefits beginning April 2024. Exhibit A, pp. 11-12. A Notice of Food Assistance (FAP) Closure form dated March 10, 2024, stated that Petitioner's FAP eligibility would end April 2024 due to Petitioner's failure to return a SACR. Exhibit A, pp. 41-42. Petitioner's FAP eligibility indeed ended beginning April 2024 after a SACR was not received by MDHHS.

For all programs, a complete redetermination is required at least every 12 months. BAM 210 (January 2024) p. 3. A complete SACR must be submitted by groups with countable earnings and a 12-month benefit period. *Id.*, p. 11. Bridges, the MDHHS database, automatically sends an SACR at the beginning of the fifth month for cases assigned a 12-month benefit period. *Id.* If MDHHS does not receive the SACR by the 10th day of the sixth month, a Notice of Food Assistance (FAP) Closure is sent; this reminder notice explains that the client must return the SACR and all required verifications by the last day of the month, or the case will close. *Id.*, p. 14. If the SACR is not received by the last working day of the redetermination month, MDHHS is to close the case without further notice to the client. *Id.*

MDHHS sent Petitioner a SACR on February 1, 2024, stating a due date of February 21, 2024. Exhibit A, pp. 36-40. It was not disputed that Petitioner did not return the SACR by the due date. Because the SACR was still not received by March 10, 2024, MDHHS properly sent Petitioner a Notice of Food Assistance (FAP) Closure form that same date. Exhibit A, pp. 41-42. When a SACR was not received before the end of March 2024, MDHHS contended that Petitioner's FAP eligibility properly ended beginning April 2024.

A list of documents received by MDHHS from Petitioner notably did not include an SACR. Exhibit A, p. 43. Indeed, Petitioner did not deny failing to return a SACR. Petitioner contended that she did not return a SACR because her FAP eligibility appeared to be processed. MDHHS sent Petitioner an approval notice on February 16, 2024. Petitioner emphasized that the notice stated Petitioner was eligible for \$766 in FAP benefits for the benefit period from March 2024 through September 2024.¹ Exhibit A, pp. 23-28. Thus, in Petitioner's mind, MDHHS must have processed the redetermination because benefits were seemingly approved through September 2024.

Though MDHHS sent Petitioner notice of a benefit period beyond March 2024, sending such a notice does not equate to redetermined benefits. The notice dated 2/16/24, was presumably sent in response to some change in FAP eligibility rather than a processed SACR. Petitioner likely received an approval notice for a benefit period certified through September 2024 six months earlier. Also, the notice likely instructed Petitioner that the benefit period would have to be certified within six months despite an end month of September 2024 for the benefit period.²

¹ After the hearing, a check of correspondence sent to Petitioner uncovered a notice dated October 20, 2023, advising Petitioner of a benefit period certified through September 2024, and a need for a review within six months.

² A check of Petitioner's casefile revealed this to be true.

Furthermore, Petitioner was warned after February 16, 2024 about benefit closure. MDHHS sent Petitioner a Notice of Food Assistance (FAP) Closure on March 10, 2024, warning that benefit closure would occur at the end of the month unless an SACR was received first.

Given the evidence, MDHHS properly terminated Petitioner's FAP eligibility beginning April 2024. As discussed during the hearing, Petitioner's recourse is to reapply for FAP benefits.

Petitioner also requested a hearing to dispute MDHHS's alleged failure to comply with an administrative order. Exhibit A, pp. 4-5. A Hearing Decision dated February 8, 2024, concluded that MDHHS failed to process Petitioner's FAP benefit application dated [REDACTED] Exhibit A, pp. 18-23. MDHHS was ordered to process Petitioner's FAP eligibility from the application date ([REDACTED] 2023) through the day before Petitioner reapplied for FAP benefits ([REDACTED] 2023). *Id.* At the time of the Hearing Decision, MDHHS hadn't issued any FAP benefits to Petitioner for September 2023. MDHHS issued \$408 in FAP benefits beginning October 19, 2023, after Petitioner reapplied for FAP benefits. A Benefit Notice dated February 16, 2024, informed Petitioner of a FAP benefit supplement of \$170 for September 2023 and \$256 for October 2023.³ Exhibit A, pp. 31-34. Petitioner contended that the supplements were improperly insufficient.

FAP benefit amounts are based on a client's net income. Net income, for purposes of FAP benefits, is based on the client's group size, countable monthly income, and relevant monthly expenses. BEM 556 outlines the factors and calculations required to determine net income. MDHHS presented no FAP budget documentation, but eventually testified to all relevant budget factors. During the hearing, all relevant budget factors were discussed with Petitioner. The analysis will begin with Petitioner's FAP eligibility for September 2023.

In determining Petitioner's FAP eligibility, MDHHS factored a benefit group including herself, her husband, and two children over the age of 18 years. Petitioner and MDHHS agreed that Petitioner's benefit group was four persons.⁴

A group's financial eligibility and monthly benefit amount are determined using the income that was already received, or income amounts not received but expected. BEM 505 (October 2023) p. 5. For past months, MDHHS is to use actual gross income amounts received, converting to a standard monthly amount, when appropriate. *Id.* In the present case, MDHHS properly calculated Petitioner's income based on actual income received by group members; no conversion was necessary.

MDHHS factored that Petitioner's son received gross wages of \$ [REDACTED] and \$ [REDACTED] Petitioner's daughter received \$ [REDACTED] and Petitioner's husband received \$ [REDACTED] The

³ The supplements were verified by documentation of past FAP issuances. Exhibit A, p. 35.

⁴ See BEM 212 for policies on determining group size for FAP benefits.

wages totaled \$ [REDACTED] (dropping cents): the same employment income calculated by MDHHS.

MDHHS credited Petitioner with all wages being timely reported. MDHHS issued a 20% credit for timely reported employment income which results in a countable income of \$2,665 (rounding to nearest dollar).

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (January 2024) p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: shelter expenses (housing and utilities) up to a capped amount, dependent care costs, and court-ordered child support and arrearages paid to non-household members (see *Id.*). An SDV group that has a verified one-time or ongoing medical expense(s) of more than \$35 for an SDV person(s) will receive the standard medical deduction (SMD) of \$165. *Id.* p. 9. If the group has actual medical expenses which are more than the SMD, the group has the option to verify their actual expenses instead of receiving the SMD. *Id.* An SDV group also has an uncapped shelter expense.

Petitioner's benefit group had no SDV members; thus, countable medical expenses are \$0. Petitioner's testimony acknowledged having no child support or dependent care expenses. The evidence established non-shelter expenses of \$0.

Petitioner's FAP benefit group size justifies a standard deduction of \$193 (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction and countable non-shelter expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. Subtracting the standard deduction (\$193) and countable non-shelter expenses (\$0) from Petitioner's group's countable income (\$2,665) results in an adjusted gross income of \$2,472.

MDHHS credited Petitioner with monthly housing expenses of \$517.79. Petitioner did not allege additional housing expenses. MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$624. RFT 255 (October 2022) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.⁵ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$1,142 (rounding to nearest dollar).

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is \$0.

The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$2,472 in net income

⁵ MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence of applicable exceptions.

for Petitioner's group. A chart is used to determine the proper FAP benefit issuance. ⁶ RFT 260 (October 2023) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for September 2023 is \$197. Prorating Petitioner's income given an application date of the 5th in a 30-day month results in a proper FAP benefit of \$170: the same amount of FAP benefits issued by MDHHS. It is found that MDHHS properly determined Petitioner's FAP eligibility for September 2023.

Concerning Petitioner's dispute over October 2023 FAP eligibility, Petitioner's group size of four persons was unchanged. MDHHS verified wages for Petitioner's son of \$ [REDACTED] and \$ [REDACTED] a total of \$ [REDACTED] (dropping cents). Applying the 20% credit for timely reported income results in countable income of \$ [REDACTED] (dropping cents). Again, Petitioner did not allege non-shelter expenses. The standard deduction for a four-person group changed to \$208. RFT 255 (October 2023) p. 1. Subtracting the standard deduction of \$208 and non-shelter expenses of \$0 from the countable income results in an adjusted gross income of \$ [REDACTED]

Petitioner's housing expenses remained \$517.72, but MDHHS increased the shelter credit to \$680 resulting in total shelter expenses of \$1,198. Subtracting, the shelter expenses from half of the adjusted gross income results in an excess shelter expense of \$456. Subtracting \$456 from the adjusted gross income results in net income of \$1,028. Using the updated reference tables results in monthly benefits of \$664. RFT 260 (October 2023) p. 1. MDHHS issued \$408 to Petitioner when processing the FAP application dated October 19, 2023. MDHHS supplemented Petitioner \$256 benefits in response to the administrative order. Thus, MDHHS properly issued \$664 in total FAP benefits to Petitioner for October 2023.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's FAP eligibility for September and October 2023. It is also found that MDHHS properly terminated Petitioner's FAP eligibility beginning April 2024. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki
Administrative Law Judge

⁶ FAP eligibility can also be calculated by multiplying the net income by 30% and subtracting the amount from the maximum FAP issuance for the group.

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via-Electronic Mail :

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Vivian Worden
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Interested Parties

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MOAHR

Via-First Class Mail :

Petitioner

[REDACTED], MI [REDACTED]